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16 Attorneys for WAYMO LLC

17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

19 WAYMO LLC,

20 CASE NO. 3:17-cv-00939-WHA

21 Plaintiff,

22 **PLAINTIFF WAYMO LLC'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL PORTIONS OF PARTIES'
JOINT PRETRIAL FILINGS**

23 vs.

24 UBER TECHNOLOGIES, INC.;
25 OTTOMOTTO LLC; OTTO TRUCKING
26 LLC,

27 Defendants.

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1 Pursuant to Civil L.R. 7-11 and 79-5, Plaintiff Waymo LLC (“Waymo”) respectfully
 2 requests to file under seal portions of the Parties’ Joint Pretrial Filings. Specifically, Waymo
 3 requests an order granting leave to file under seal the portions of the documents as listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Joint Proposed Pretrial Order	Highlighted Portions	Waymo (green highlighting)
Appendix A to Joint Proposed Pretrial Order	Entire Document	Waymo; Defendants
Appendix B to Joint Proposed Pretrial Order	Highlighted Portions	Anthony Levandowski and/or other third parties (red highlighting)
Appendix D to Joint Proposed Pretrial Order	Highlighted Portions	Waymo (green highlighting); Defendants (blue highlighting)
Uber’s Proposed Special Verdict Form	Highlighted Portions	Waymo (green highlighting)
Otto Trucking’s Proposed Special Verdict Form	Highlighted Portions	Waymo (green highlighting)
Joint Proposed Jury Instructions	Highlighted Portions	Anthony Levandowski (red highlighting)

15 **I. LEGAL STANDARD**

16 Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or
 17 portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under
 18 the law” (*i.e.*, is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored
 19 to seek sealing only of sealable material.” *Id.* In the context of non-dispositive motions, materials
 20 may be sealed so long as the party seeking sealing makes a “particularized showing” under the “good
 21 cause” standard of Federal Rule of Civil Procedure 26(c). *Kamakana v. City & Cnty. of Honolulu*,
 22 447 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto Insurance Co.*, 331
 23 F.3d 1122, 1135, 1138 (9th Cir. 2003)).

25 **II. THE COURT SHOULD SEAL WAYMO’S CONFIDENTIAL INFORMATION**

26 The Court should seal the portions of the Joint Pretrial Filings identified by Waymo in the
 27 table above. Waymo seeks to file this information under seal because it discloses Waymo’s trade
 28 secrets and confidential business information. *See* Declaration of Felipe Corredor (“Corredor Decl.”)

¶¶ 3-5. Courts have determined that trade secret information merits sealing. *Music Grp. Macao Commercial Offshore Ltd. v. Foote*, No. 14-cv-03078, 2015 WL 3993147, at *1 (N.D. Cal. June 30, 2015) (quoting *Kamakana*, 447 F.3d at 1179); *see also Brocade Commc 'ns Sys., Inc. v. A10 Networks, Inc.*, No. C 10-3428, 2013 WL 211115, at *1, *3 (N.D. Cal. Jan. 17, 2013) (granting request to seal document that “consists entirely of descriptions of Brocade’s trade secrets”). Confidential business information that, if released, may “harm a litigant’s competitive standing” also merits sealing. *See Nixon v. Warner Commc 'ns, Inc.*, 435 U.S. 589, 598-99 (1978). Waymo seeks to seal trade secrets that fit squarely within these categories. Corredor Decl. ¶¶ 3-5. Waymo maintains this information as a trade secret (*see* Dkt. 25-31) and ensures the information remains secret with strict secrecy and security protocols (*see* Dkt. 25-47; Dkt. 25-49.). *See* Corredor Decl. ¶ 4. Waymo has narrowly tailored its requests to only information meriting sealing. *Id.* ¶ 5. In fact, both *Music Group* and *Brocade* found the confidential information at issue in those cases met the heightened “compelling reasons” standard for sealing. *Music Grp.*, 2015 WL 3993147, at *1; *Brocade*, 2013 WL 211115, at *1, *3. The information that Waymo seeks to seal, therefore, also meets this heightened standard. The disclosure of Waymo’s trade secret information would harm Waymo. Corredor Decl. ¶ 4. Moreover, the scope of information that Waymo is seeking to seal is consistent with other administrative motions to seal that have already been granted by the Court in this case. (*See, e.g.*, Dkt. 416, 414, 406, 393, 392.) Thus, the Court should grant Waymo’s administrative motion to seal.

19 **III. DEFENDANTS’ AND/OR THIRD PARTIES’ CONFIDENTIAL INFORMATION**

20 Waymo only seeks to seal the portions of Appendices B and D to the Joint Proposed Pretrial
 21 Order and of the Joint Proposed Jury Instructions as identified in the table above, and additionally
 22 seeks to seal Appendix A to Joint Proposed Pretrial Order, because Waymo believes such information
 23 is considered confidential or non-public by Defendants and/or by certain third parties. Corredor Decl.
 24 ¶ 6. Waymo takes no position as to the merits of sealing any of designated material, and expects
 25 Defendants and/or third parties to file declarations in accordance with the Local Rules.

1 **IV. CONCLUSION**

2 In compliance with Civil Local Rule 79-5(d), redacted and unredacted versions of the
3 above listed documents accompany this Administrative Motion. For the foregoing reasons,
4 Waymo respectfully requests that the Court grant Waymo's administrative motion to file under
5 seal.

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7 DATED: September 21, 2017

QUINN EMANUEL URQUHART & SULLIVAN,
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9 By /s/ Charles Verhoeven

10 Charles Verhoeven
11 Attorneys for WAYMO LLC

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